



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2012-0140; FRL-9634-5]

Revision to the South Coast Air Quality Management District
Portion of the California State Implementation Plan, South Coast
Rule 1315

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision for the South Coast Air Quality Management District (District) portion of the California SIP. This SIP revision proposes to incorporate Rule 1315 - Federal New Source Review Tracking System - into the District's SIP approved New Source Review (NSR) program to establish the procedures for demonstrating equivalency with federal offset requirements by specifying how the District will track debits and credits in its Offset Accounts for Federal NSR Equivalency for specific federal nonattainment pollutants and their precursors. The District's SIP approved NSR program contained in Regulation XIII allows the District to exempt certain sources from obtaining offsetting emission reductions on the open market and for the District to provide offsets for designated sources that qualify, such as

essential public services. EPA's proposal to approve this SIP revision is based on finding that Rule 1315 provides an adequate system to demonstrate on an on-going basis that an equivalent amount of offsets are being provided pursuant to this rule as would otherwise be required by the Clean Air Act (CAA) and that the emission reductions the District is crediting and debiting in its Offset Accounts meet the requirements of the CAA and can be used to provide the offsets otherwise required for federal major sources and modifications.

DATES: Comments on this Notice of Proposed Rulemaking (NPR) must be submitted no later than [insert date 30 days from date of publication in FR].

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2012-0140, by one of the following methods:

1. Federal eRulemaking Portal: www.regulations.gov. Follow the on-line instructions.
2. E-mail: r9airpermits@epa.gov.
3. Mail or deliver: Gerardo Rios (Air-3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business

Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or e-mail. www.regulations.gov is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California.

While EPA generally lists the documents in the docket in the index, some information may not be specifically listed as a line item in the index or may be publicly available only at the hard copy location (e.g., voluminous records, copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section. The hard copy materials constitute the docket.

FOR FURTHER INFORMATION CONTACT: Laura Yannayon, EPA Region IX, (415) 972-3534, yannayon.laura@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we", "us", and "our" refer to EPA.

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I. Background

EPA allows and encourages local authorities to tailor SIP programs, including new source review permitting programs, to account for that community's particular needs provided that the SIP is not less stringent than the Act's requirements. See generally CAA Section 116, 42 U.S.C. 7416; *Train v. Natural Res. Defense Council*, 421 U.S. 60, 79 (1975); *Union Electric Co. v. EPA*, 427 U.S. 246, 250 (1976). The District's nonattainment

permitting rules contained in District Regulation XIII went through numerous public workshops and stakeholder meetings prior to adoption in December 1995. The California Air Resources Board (CARB) submitted Regulation XIII along with supporting regulations and documents to EPA Region 9 on August 28, 1996. On December 4, 1996, EPA Region 9 published a direct final approval of Regulation XIII in the Federal Register. 61 FR 64291 (December 4, 1996) (Codified at 40 CFR 52.220 (c)(240)(i)(1)).

When EPA approved Regulation XIII, we noted that Rule 1304 exempted certain major sources from obtaining offsets and Rule 1309.1 allowed the District to provide offsets for specific "priority" projects. We approved these rules because the District committed to demonstrating on an annual basis that it was providing an amount of offsets that was equivalent to the amount required to offset federal new and modified major sources.¹ EPA did not require the District to codify its internal NSR tracking system in rule language as a condition of full approval of Regulation XIII. From 1997 through 2005, the District submitted annual equivalency reports to its Board for

¹ Environmental Protection Agency, Region IX Air & Toxics Division Technical Support Document for EPA's Notice of Final Rulemaking for the California State Implementation Plan South Coast Air Quality Management District New Source Review by Gerardo C. Rios, October 24, 1996 (TSD).

approval and provided copies to EPA Region 9.² The District's Board meetings at which the annual reports were approved were open to the public.

EPA informed the District beginning in 2002 that if it was significantly expanding the sources that were allowed to obtain offsets from the internal NSR tracking system through a new offset budget rule (Rule 1309.2 - Offset Budget), the tracking system's transparency should be improved. Proposed SCAQMD NSR Offset Tracking System, Oct. 14, 2005, (2005 Proposed Tracking System) at p.1. In 2004-2005, the District drafted regulatory language, now revised and adopted as Rule 1315, to establish NSR program equivalency with the federal NSR offset requirements for major sources and demonstrate annually that the District provided sufficient offsets for federal major sources and modifications that were 1) otherwise exempt from offset requirements under Rule 1304 or 2) allocated offsets pursuant to Rule 1309.1. Proposed Rule 1315(a), Preliminary Draft, Adopted Sept. 8, 2006.

In our discussions during 2002-2003, EPA also noted that the District's use of the negative NSR balances and other pre-1990 era offsets to fund the NSR tracking system would be inconsistent with federal requirements unless the District had

² Annual Equivalency Reports approved by the South Coast AQMD Board, dated February 14, 1997, March 13, 1998, April 9, 1999, August 18, 2000, November 9, 2001, August 2, 2002, and April 2, 2004.

sufficient records for those offsets. Staff Report: Proposed Rule 1315 - Federal New Source Review Tracking System, dated January 7, 2011, at pp. 6-7 (2011 Staff Report); 2005 Proposed Tracking System at pp. 1-2. The District concluded that it did not readily have sufficient documentation for many of the offsets it had collected from the negative NSR balances and other pre-1990 era offsets. Proposed SCAMQD NSR Offset Tracking System, Oct. 14, 2005 at p. 2.

The District responded to EPA's request by eliminating any offsets originating before 1990 without documentation on October 14, 2005. 2005 Proposed Tracking System, at pp. 12-13. Unlike many areas, the District requires almost all federal minor sources to obtain a permit and offset any emission increases up to the sources' permitted emissions level. Rule 1303(b)(2).

The adjustments the District made in October 2005 to the existing NSR tracking system significantly decreased the balance of available offsets for most pollutants. For example, this adjustment reduced the internal NSR tracking system balance for PM₁₀ (particulate matter with an aerodynamic diameter less than or equal to 10 micrometers) by 92% (from 34.5 to 2.67 tons per day). 2011 Staff Report, at p. 9; 2005 Proposed Tracking System, at Table 1. The District informed EPA Region 9 that it had previously credited the offsets from minor orphan shutdowns for State purposes. The District had not needed to credit those

minor orphan shutdowns for its federal accounts because the offsets from the negative NSR balances were far greater than the amount needed to demonstrate equivalency with federal offset requirements for Rule 1304 exempt sources and Rule 1309.1 priority reserve sources. (2005 Proposed Tracking System), at p. 3.

EPA and the District had further discussions about the changes to the NSR tracking system resulting in a revised letter to EPA dated February 23, 2006. SCAQMD's Revised NSR Offset Tracking System, Feb. 23, 2006. The revisions primarily resolved issues EPA raised regarding the District's method of reporting the offset account balances and the remedy if a shortfall was projected. SCAQMD Letter from Dr. Barry Wallerstein to Deborah Jordan, Feb. 24, 2006. EPA responded by letter on April 11, 2006, indicating that the District's proposed NSR Offset Tracking System funded with emission reductions from minor and major orphan shutdowns and other sources (i.e. credits to the system) appeared to be sufficient for EPA to propose approval of Rule 1315. EPA Letter from Deborah Jordan to Dr. Barry Wallerstein, April 11, 2006. Both the October 2005 Proposed SCAQMD NSR Offset Tracking System and February 23, 2006 Revised NSR Offset Tracking System appended tables prepared by the SCAQMD called the "Federal Running Balances." Revised NSR Offset Tracking System, Feb. 23, 2006,

Attachment 1. The Federal Running Balances table contains details concerning the credits added and debits subtracted from the NSR offset tracking system.

The District adopted Rule 1315's regulatory language codifying how it will account for, or "track", the emission reductions that it adds into its Offset Accounts as credits and those which it subtracts as debits to provide offsets for the construction of certain federal major sources or modifications exempted from offset requirements pursuant to Rule 1304 or for which the District provided offsets pursuant to Rule 1309.1. SCAQMD Governing Board Resolution for the Re-adoption of Rule 1315 - Federal New Source Review Tracking System, dated Feb. 4, 2011. EPA is now proposing to approve Rule 1315 as a SIP revision.

II. Evaluation of SIP Revision

A. What is in the SIP Revision?

Rule 1315 which the District, through CARB, submitted to EPA consists of the regulatory text the District adopted on February 4, 2011, along with supporting documentation including a Staff Report dated January 7, 2011. EPA received the SIP submittal for Rule 1315 from CARB on March 2, 2011, and a supplemental submittal on February 7, 2012. On March 25, 2011, we found that the submittal of District Rule 1315 met the

completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

The Rule contains a section describing its purpose and a definitions section. Rule 1315(a) and (b). Rule 1315(c), Offset Accounts for Federal NSR Equivalency, contains provisions for quantifying, crediting and debiting the offset accounts. Rule 1315(c)(1), District Offset Accounts for Federal Nonattainment Air Contaminants, provides that all pre-1990 offsets were removed at the end of 2005 and sets forth the initial District Offset Account Balances in Table A. Rule 1315(c)(2) provides that the District shall debit its Offsets Accounts for emissions increases at federal new and modified major sources that are not required to provide Emission Reduction Credits (ERCs) based on Rules 1304 (Exemptions) and 1309.1 (Priority Reserve). Rule 1315(c)(3)(A) contains a list of the emission reductions the District can add to its Offset Accounts and 1315(c)(3)(B) establishes how the District will quantify the actual emissions reductions for that list. Rule 1315(c)(4) specifies how the District will discount each Offset Account annually to ensure the reductions will be surplus to all CAA requirements at the time an offset is used. Rule 1315(c)(5) specifies the steps the District will take to calculate annually a Preliminary Determination of Equivalence and Final Determination of Equivalence. In Rule 1315(c)(6), the District

sets forth how the credits and debits meet each of the federal requirements for offsets. The remaining provisions in Rule 1315 establish the methods for reporting the annual Preliminary and Final Equivalency demonstrations, projecting future Offset Account balances and methods to remedy any balance shortfalls. Rule 1315 provides that it will expire on January 1, 2031.

B. What Are the Federal Clean Air Act Requirements?

The South Coast Air Basin is an extreme nonattainment area for ozone and a serious nonattainment area for PM_{10} . The Coachella Valley Air Basin is a severe nonattainment area for ozone and a serious nonattainment area for PM_{10} . Oxides of nitrogen (NO_x) and volatile organic compounds (VOC) are both ozone precursors and are therefore treated as ozone nonattainment pollutants. Sulfur dioxide (SO_2) emissions are PM_{10} precursors and are therefore also treated as a PM_{10} nonattainment pollutant. While the District is classified as nonattainment for $PM_{2.5}$ (particulate matter with an aerodynamic diameter less than or equal to 2.5 micrometers) and portions of the District as nonattainment for lead, Rule 1315 does not apply to these pollutants. The District was redesignated to attainment for carbon monoxide (CO) on May 11, 2007 (72 FR 26718), but CO is included in the tracking system because of its past nonattainment status.

As required by CAA § 110(a)(2)(C), SIPs are required to include provisions to comply with CAA Part D for nonattainment pollutants. Among the Part D requirements, §173(a)(1)(A) requires new and modified major stationary sources to provide offsetting emission reductions. Section 173(c) requires the offsetting emission reductions to be quantifiable, surplus, permanent, and enforceable. See 40 CFR 51.165(a)(3)(ii)(c)(i); 40 CFR Part 51, Appendix S. This proposal will refer to those requirements as the "federal integrity criteria".

EPA is proposing to approve Rule 1315 because the rule ensures that the emission reductions in the District's Offset Accounts meet the federal integrity criteria. See Rule 1315(c). Rule 1315 also demonstrates that the District's offset tracking system provides an equivalent quantity of offsets for those major sources and modifications that are not required to provide such offsets pursuant to District Rules 1304 and 1309.1. EPA's analysis of how the credits and debits tracked in Rule 1315 meet the federal integrity criteria is summarized below and set forth in more detail in the Technical Support Document (TSD).

C. How Does the SIP Revision Comply with the Federal Integrity Criteria and Demonstrate Equivalency?

1. The Offsets Credited and Debited through Rule 1315 Are Quantifiable.

EPA is proposing to approve Rule 1315 because the emission reductions that the District credits and debits to its Offset Accounts meet the requirement to be quantifiable emissions reductions. The District meets this requirement by demonstrating that the credits and debits are actual and quantifiable reductions of emissions. To quantify the reductions of emissions from orphan shutdown sources, the District determines the permitted emissions level and then applies an 80% actual emissions factor. Rule 1315(c)(3)(B)(i); Staff Report at p. 17 ("AQMD proposes to use an average discount factor to account for the difference between potential and actual emissions."). The vast majority of emission reductions credited to the Offset Accounts are from orphan shutdowns, which occur when the owner/operator of a stationary source that has been shut down does not apply for an Emission Reduction Credit (ERC) under Rule 1309 (Emission Reduction Credits and Short Term Credits). Staff Report at p. 17. The information that is available to the District when a source is shut down and the operating permit is inactivated are the source's permitted emissions, which represent its potential to emit rather than its actual emissions. Under Rule 1315, the District makes an adjustment to the permitted (i.e. potential) emissions by applying an 80% actual emissions factor before crediting these

emissions to the Offset Accounts. See Rule 1315(c)(3)(B)(i); Staff Report at p. 17.

The District has justified its determination that reducing the permitted (i.e. potential) emissions by 20% and crediting the remaining 80% is an adequate representation of actual emissions based on several considerations. The District has historically implemented an 80% actual emissions factor for estimating actual emission reductions in its Regulation XIII annual reports following concurrence by the California Air Resources Board. Staff Report at 17. The District also provided a Federal Reserve Statistical Release Report examining historical industrial production and capacity utilization. While certain short term cycles may reflect greater or lower utilization, the District's justification for selecting an 80% factor over the long term is supported by this data. Id. The District's method of quantifying actual emission reductions is also supported by the inherent structure of the District's NSR program. Every stationary source that is operated in the District with permitted emissions exceeding 4 tons per year (tpy) of ozone precursors or PM₁₀ (including precursors) is required to obtain ERCs to offset the entire amount of its permitted emissions. The cost of obtaining the ERCs to offset permitted emissions provides "a strong incentive to keep [each

source's] potential emissions in line with actual emissions during times of high production". Staff Report at 17.

For exempt and priority reserve sources that obtain their offsets from the District, the District limits the amount of offsets provided by including permit conditions that limit operations to actual operating scenarios. The District has shown that fifty to eighty percent of the very small exempt sources (emitting < 4 tpy of most pollutants) have permits emissions limits that are less than one-half of the exemption threshold (i.e. permitted emissions are less than 2 tpy). Table 5 of Staff Report, p 18. This information supports finding that the District is permitting sources at close to the source's actual emissions and that an 80% actual emissions factor adequately reflects actual reductions from orphan shutdown sources.

For the reasons provided by the District, EPA is proposing to approve Rule 1315 as ensuring that the emission reductions it credits to its Offset Accounts pursuant to Rule 1315(c)(3)(B)(i) meet the requirement to be actual emission reductions based on crediting only 80% of permitted emission levels.

2. The Offsets Credited and Debited through Rule 1315 are Surplus.

Rule 1315(c)(4) ensures that any offsets debited from the District Offset Accounts are properly adjusted to be surplus at

the time they are used as required by the federal integrity criteria. Specifically, the rule requires that the balance of credits in the Offset Accounts for each pollutant be reduced annually to account for any newly adopted rules that control these pollutants, ensuring that the debits used as offsets are surplus at the time they are used. Rule 1315(c)(4) (providing that the District discount the Offset Account balances annually "based on the percentage reduction in overall permitted emissions projected to be achieved as a result of implementation of control requirements that became effective during the previous calendar year for each specific nonattainment contaminant within the District.") EPA is proposing to find that Rule 1315 ensures that the offsets the District debits from its Offset Accounts meet the federal integrity criterion to be surplus.

3. The Offsets Debited from the District Offset Accounts are Permanent.

The emission reductions credited to the District's Offset Accounts are all permanent reductions at the time they are credited to the accounts because the permit for the emission source has either been retired or revised to include conditions that limit the emissions to levels lower than they are otherwise required to be limited through the use of federally enforceable permit conditions. The debits are permanent because Rule 1315

requires the District to subtract those offsets from the District's Offset Account balances. Rule 1315(c)(5)(B). The District must provide its Preliminary and Final Determinations of Equivalency annually to ensure there is a positive balance in each Offset Account. Rule 1315 also contains an equivalency backstop provision if any Offset Account has a shortfall. Rule 1315(f). EPA is proposing to find that Rule 1315 assures that the emission reductions in the District's Offset Accounts meet the requirement for permanent reductions.

4. The Offsets Credited and Debited from the District Offset Accounts are Enforceable.

The emission reductions credited to the District's Offset Accounts for orphan shutdowns or orphan reductions are all enforceable reductions at the time they are credited to the accounts because the permit for the emission source has either been retired, which means the source is no longer allowed to operate/emit those pollutants, or revised to include conditions that limit the emissions to levels lower than they are otherwise required to be limited through the use of federally enforceable permit conditions. This ensures that the emissions will be permanently retired or reduced. Rule 1315(b)(4) & (5) and (c)(3)(A)(i) & (ii). For each of the other types of credits listed in Rule 1315 (c)(3)(A), the credits are based on ERCs that have been generated pursuant to Rule 1309, which also

requires that the emission reductions meet each of the federal integrity criterion, including the requirement to be enforceable emission reductions. Therefore, EPA is proposing to find Rule 1315 meets the federal integrity criterion for enforceable reductions.

D. Do Rule 1315's Offsets Comply with the EPA's Base Year Requirements?

40 CFR 51.165(a)(3)(i)(C) provides:

Emissions reductions achieved by shutting down an existing emission unit or curtailing production or operating hours may be generally credited for offsets if(ii)[t]he shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For purposes of this paragraph, a reviewing authority may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emission units.

See also 40 CFR Part 50, Appendix S, IV.

Rule 1315 is being submitted by the District to demonstrate equivalency with the Part D requirements for ozone and PM₁₀ (and their precursor emissions). To evaluate Rule 1315's compliance with the base year requirement for using offsets from emissions

units being shut down or curtailed, EPA has determined that the most appropriate attainment demonstrations to review are the District's approved PM₁₀ and 8-hour ozone Plans. Approval and Promulgation of [SIPs] for Air Quality Planning Purposes; California - South Coast and Coachella, 70 FR 69081 (Nov. 14, 2005) (2003 Plan); Approval of Air Quality Implementation Plans; California; South Coast; Attainment Plan for 1997 8-hour Ozone Standards, EPA-R09-OAR-2011-0622 (Signed Dec. 15, 2011) (2007 Plan). The District's PM₁₀ Plan was adopted in 2003 and relies on a 1997 base year emission inventory. 2003 Plans, Chapter 3 & Appendix III. For ozone, the Plan was adopted in 2007 and relies on a 2002 base year emission inventory. 2007 Plan, Chapter 3 & Appendix III.

In accordance with the base year requirements specified in 40 CFR 51.165, the District estimated that 3.1 tons per day (tpd) of pre-2002 base year VOC emission reductions may be needed to satisfy offset demand. 2007 Plan Appendix III. For ozone precursors, the District added 27 and 2 tons per day for VOC and NO_x, respectively, as growth.³ This amount includes the 3.1 tpd of pre-2002 base year VOC emission reductions. While this is not the total amount of pre-2002 base year emission

³ See 2007 Plan Appendix III, pgs 28-34, Tables 2-8 and 2-12. For Table 2.8, the District provided EPA with the point and area source data used to generate the summary data. EPA used this data to determine the amount of emission due to growth at facilities subject to NSR offset requirements.

reductions available as debits pursuant to Rule 1315, the District has demonstrated that this amount represents the highest amount of pre-2002 credits that are expected to be used as offsets prior to attainment of the ozone standard. 2007 Plan Appendix III, pgs 28-34. The District used a similar approach for the 2003 Plan as it pertains to PM₁₀ and SO_x emissions. See the TSD for additional details. This approach is consistent with EPA guidance that states must include pre-base year credits to the "extent that the State expects that such credits will be used for offsets...". 57 FR 13498

Therefore, even if the District Offset Accounts rely on pre-base year emission reductions as offsets, the District's Plans have adequately added pre-base year emissions explicitly into the appropriate projected planning inventories. For these reasons, EPA is proposing to approve Rule 1315.

E. CAA Section 110(1)

Under section 110(1) of the CAA, EPA may not approve any SIP revision that would interfere with attainment, reasonable further progress (RFP) or any other CAA requirement. EPA's incorporation of Rule 1315 into the SIP will not interfere with attainment or RFP because the rule provides a regulatory mechanism setting forth the internal offset accounting system that the District has been relying on. In addition, the District does not rely on the offsets in the District's Offset

Accounts for attainment or RFP in the District's most recent attainment demonstrations for ozone or PM₁₀.

This SIP revision also does not interfere with any other CAA requirement. Rule 1315 provides regulatory language detailing how the District will quantify and add credits and subtract debits from its Offset Accounts. Our proposal to approve Rule 1315 is based on finding the rule ensures the credits and debits meet the federal integrity criteria and that the District system overall is equivalent to the requirements of Section 173.

F. Public Comment and Final Action

Because EPA has determined Rule 1315 fulfills all relevant requirements, we are proposing to fully approve it as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. After considering the information and views submitted to us during the comment period, we will take final action on this SIP submittal.

Rule 1315 has been under development at the District and the interested public has been involved in its development for the last several years, including state litigation concerning the Rule. Therefore, EPA does not anticipate extending the public comment period beyond 30 days absent extraordinary or compelling circumstances.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection,
Intergovernmental relations, Particulate matter, Reporting and
recordkeeping requirements.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: February 9, 2012

Signed: Jared Blumenfeld,
Regional Administrator,
Region IX

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